IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

Bail Appl..No. 6960 of 2007()

CR 52/07 OF EXCISE RANGE, CHADAYAMANGALAM
CRMP.3421/2007 of I ADDL. DISTRICT COURT, KOLLAM

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PETITIONER

VIJAYAN @ ANIL KUMAR,
S/O.GANGADHARAN PILLAI, AGED 36 YEARS,
MANJAPPARA VEEDU, CHITHARA, MANKODE VILLAGE,
KOTTARAKKARA TALUK, KOLLAM.

BY ADV. SRI.BRIJESH MOHAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE PREVENTIVE OFFICER,
CHADAYAMANGALAM EXCISE RANGE, CHADAYAMANGALAM,
KOLLAM DISTRICT.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6960 of 2007

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Dated this the 16th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. 3 litres of illicit arrack was allegedly found available in the residential building of the petitioner. At the time of seizure the petitioner or other members of the family were not there. On receipt of discreet prior information, the Excise party had reached the house. The seizure was effected. The petitioner was arrayed as an accused. He has no criminal antecedents admittedly. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Some persons enimical towards the petitioner must have planted the contraband article in his house, it is alleged. It is prayed that the petitioner may be granted anticipatory bail.

3. The application is opposed. The learned Prosecutor submits that the available indications do clearly point to the complicity of the petitioner.

4. I have considered all the relevant inputs. The case diary has been placed before me for my perusal. I shall carefully avoid any detailed discussion on merit about the acceptability of the allegations raised or the credibility of the data collected. Suffice it to say that, I do not find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioners appear before the Investigating Officer or the learned Magistrate having jurisdiction and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the

learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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